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IMPLEMENTATION OF THE CONCLUSIONS AND RECOMMENDATIONS OF THE MINISTERIAL MEETING ON THE CREATION OF AN EFFECTIVE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME

Implementation of the conclusions and recommendations of the Ministerial Meeting on the Creation of an Effective United Nations Crime Prevention and Criminal Justice Programme, in pursuance of General Assembly resolution 46/152

Report of the Secretary-General

Summary

The present report is submitted in response to General Assembly resolution 46/152 of 18 December 1991. It contains a brief summary of the proceedings, conclusions and recommendations of the Ministerial Meeting on the Creation of an Effective United Nations Crime Prevention and Criminal Justice Programme, held in Paris from 21 to 23 November 1991, and of the action taken thereon by the General Assembly at its forty-sixth session. Following a brief overview of the experience of the former Committee on Crime Prevention and Control, the prospective organization and functioning of the Commission on Crime Prevention and Criminal Justice, the proposed revisions to the medium-term plan for the period 1992-1997, and the follow-up to other recommendations and conclusions of the Ministerial Meeting, the report presents initial proposals for the implementation of General Assembly resolution 46/152 and its annex.

*E/CN.15/1992/1 and Corr.1.

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INTRODUCTION

1. The General Assembly, in its resolution 46/152 of 18 December 1991, took note with appreciation of the report of the Ministerial Meeting on the Creation of an Effective United Nations Crime Prevention and Criminal Justice Programme, held in Paris from 21 to 23 November 1991 (see A/46/703 and Corr.1); approved the Statement of Principles and Programme of Action of the United Nations Crime Prevention and Criminal Justice Programme annexed to the resolution, recommending the establishment of an effective United Nations programme; and requested the Secretary-General to give a high level of priority within the United Nations framework, and within the overall existing United Nations resources, to the activities of the Organization in this field.

2. In the same resolution, the Assembly, inter alia, decided to recommend that the meeting of the Committee on Crime Prevention and Control, scheduled for February 1992, be cancelled. It also requested the Economic and Social Council, at its organizational session of 1992, to dissolve the Committee and to establish a commission on crime prevention and criminal justice as a functional commission of the Council, and to endorse the role and functions of the United Nations congresses on the prevention of crime and the treatment of offenders, in accordance with the Statement of Principles and the Programme of Action. It decided further that the members of the Committee should be invited to participate during the first two days of the inaugural session of the new Commission, at the expense of their Governments, except in the case of the Committee members from least developed countries, in order to facilitate an orderly transition. The Council responded to these recommendations by adopting resolution 1992/1 of 6 February 1992 and decisions 1992/201 and 1992/202 of 7 February 1992.

3. In order to assist the Commission on Crime Prevention and Criminal Justice in considering the various issues related to the implementation of the relevant provisions of General Assembly resolution 46/152, the present report provides a brief overview of the main issues discussed at the Ministerial Meeting and of its conclusions and recommendations, and the action taken thereon by the General Assembly at its forty-sixth session. The report also contains some preliminary suggestions for the consideration of the Commission.

4. In pursuance of paragraph 14 of resolution 46/152, the Secretary-General is requested to report to the General Assembly, at its forty-seventh session, on measures taken to implement the Statement of Principles and Programme of Action.

I. MINISTERIAL MEETING ON THE CREATION OF AN EFFECTIVE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME

5. The Ministerial Meeting was attended by a total of 107 delegations, with some 65 ministers, in addition to a wide range of representatives of intergovernmental and non-governmental organizations. In his message to the Meeting, the Secretary-General noted that Member States had repeatedly voiced their concern over the growing seriousness of crime, including terrorism, organized crime, economic crimes, illicit drug trafficking, large-scale fraud and environmental offences, all of which posed a real threat to the global society. It was, therefore, imperative that crime and justice be addressed as a critical problem requiring coordinated national and international action, with close judicial and police cooperation among States. The Meeting was

expected to provide guidance on the creation of an effective United Nations programme in this field.

6. Ministers and other heads of delegations expressed concern about the increases in criminality, which had reached unacceptable levels in many countries. Rising crime rates seemed to be an almost universal phenomenon. Lawbreakers were acting more aggressively, while organized crime was making inroads into government and economic affairs. The consequences were often overloaded courts, inundated police forces and overcrowded prisons, as well as widespread public fear, coupled with demands for more effective control policies. An inadequate criminal justice system undermined the faith of the citizens in the capacity of their government to protect them. There was an acute need for better and more accurate criminal statistics, including the harmonization and standardization of data collection, particularly on transnational crime. That was essential for the evaluation of the global crime situation. In addition, the exchange of information and sharing of intelligence, through the establishment of a solid database relating to transnational crimes, such as terrorism, organized criminality and money-laundering, would not only facilitate extradition requests but also further encourage mutual assistance and cooperation at all levels. In this connection, one of the main tasks of the new United Nations programme would be to make people more aware of the potential of international cooperation in this field, and to assist Member States in promoting such means for inter-State cooperation. The importance of the United Nations instruments, norms, standards and guidelines in the field of crime prevention and criminal justice was also widely acknowledged. They served not only as valuable guidelines for States, but also as a basis for the work of the United Nations bodies established to combat grave human rights violations.

7. In three days of discussion, consensus was reached on the elements and future structure of a programme. In the Statement of Principles and Programme of Action for the United Nations Crime Prevention and Criminal Justice Programme, representatives of Governments attending the Ministerial Meeting expressed their determination to translate their political will into concrete reality by the following means: creating the essential mechanisms for practical collaboration against common crime problems; providing a framework for inter-State cooperation and coordination to respond to the serious new forms and transnational aspects and dimensions of crime; establishing channels for the exchange of information concerning the implementation and effectiveness of United Nations norms and standards in crime prevention and criminal justice; providing means of assistance, particularly to developing countries, for more effective crime prevention and humane justice; and establishing an adequate resource base for a truly effective United Nations crime prevention and criminal justice programme. In sum, the review of the programme had to aim at strengthening its effectiveness, improving its efficiency and establishing an adequate Secretariat support structure.

8. In the Programme of Action, the Meeting gave a clear definition of the programme, specified its goals and scope, including criteria for priority-setting, and provided viable directives for its structure and management, under the overall policy guidance of the new intergovernmental body. It recommended the continuation of the United Nations quinquennial congresses, as forums for the exchange of views between States, intergovernmental and non-governmental organizations and individual experts; for the exchange of experience in research, law and policy development; for the identification of emerging trends; and for the submission to the Commission of suggestions

regarding possible subjects for the work programme. With respect to programme support, the Meeting placed emphasis on the role and the involvement of the interregional and regional institutes for the prevention of crime and the treatment of offenders and on the coordination of their activities, the potential of the network of government-appointed national correspondents, and the cooperation of intergovernmental and non-governmental organizations as a valuable source of professional expertise, advocacy and assistance.

9. As to the organizational structure and aspects of the programme, the Meeting recommended that the Secretariat should be the permanent body responsible for its implementation, with the responsibility for mobilizing existing resources, coordinating research and training activities, and assisting the new Commission in the organization of its work and the preparations for the congresses and any other programme events. It also recommended that, in recognition of the high priority that should be accorded to the programme, an upgrading of the Crime Prevention and Criminal Justice Branch to the level of a division should be effected as soon as possible. 1/

II. FORTY-SIXTH SESSION OF THE GENERAL ASSEMBLY

10. The General Assembly, at its forty-sixth session, considered the report of the Ministerial Meeting (A/46/703) and the conclusions and recommendations contained therein. During a three-day discussion, representatives welcomed the results achieved and emphasized that the conclusions and recommendations offered the most appropriate measures currently feasible to create a truly effective United Nations crime prevention and criminal justice programme. They represented a real political commitment of Member States. In the past, the United Nations machinery dealing with crime prevention and criminal justice had been neglected, owing in part to the lack of resources and to insufficient political support. With the internationalization and growing sophistication of crime, the importance of effective United Nations action in this field was greater than ever. Although, from the early days of the Organization, crime prevention and criminal justice had been considered to be fundamental to social progress and better standards of life, and while efforts had been made to tackle the many aspects of crime, it had to be recognized that the United Nations programme had not been able to keep pace with the changing nature and dimensions of crime. The importance of providing the Secretariat with sufficient resources could not be overemphasized.

11. Shedding light on the seriousness and extent of criminality and its transnational ramifications, it was noted that often law enforcement and criminal justice personnel were still constrained by domestic and other factors. In this respect, it had to be acknowledged that transnational crime could become powerful enough to inhibit social and economic development, threaten the stability of Governments, and reduce their capacity to meet the legitimate aspirations of their citizens to be protected against it. The fact was that the fate of countries and of the international community, as a whole, hinged on the urgent solution of many problems, including that of crime. That problem had grown so large in recent years that it was literally shaking the capacity of many countries to control it, causing harm to the dignity and welfare of hundreds of thousands, if not millions, of people. Organized crime, in particular, had expanded its scope, exploiting the transition to market economies, and infiltrating into legal activities, under the cover of which it laundered its huge profits. There was, therefore, no doubt that even the most strenuous efforts by any individual State would have little success unless supported by

international action. Only the United Nations could effectively oordinate such action, by developing and implementing a concerted and truly international strategy directed at providing practical help. Technical cooperation and assistance were thus of paramount importance in this context (A/C.5/46/SR.54 and 58-60).

12. At the conclusion of its discussion, the General Assembly adopted resolution 46/152 on the creation of an effective United Nations crime prevention and criminal justice programme, together with its annex, and invited Member States to give their political and financial support to the new programme, and to take measures that would ensure the implementation of the provisions of the Statement of Principles and Programme of Action as they related to the strengthening of the programme in terms of its structure, content and priorities.

III. INITIAL PHASE OF IMPLEMENTATION

A. Consideration of the experience of the Committee on Crime Prevention and Control

13. The current stage of transition could benefit from the lessons of the past, and consideration of the experience of the Committee on Crime Prevention and Control could be of paramount importance for the future work of the Commission. As the main United Nations body that provided guidance in the field of crime prevention and criminal justice, the Committee evolved from a seven-member ad hoc Advisory Committee of Experts appointed by the Secretary-General, with limited functions, to the Committee on Crime Prevention and Control, reporting directly to the Economic and Social Council and consisting first of 15 and after of 27 members elected by the Council from among candidates nominated by their Governments.

14. The establishment of the Committee, in accordance with Council resolution 1584 (L) of 21 May 1971, marked an important stage. The Committee played a pivotal role in the United Nations system as far as crime questions were concerned. In addition to its task as the only body of the Council with extensive expertise in crime prevention and criminal justice, it was called upon to discuss questions of concern to other functional commissions of the Council, such as the Commission for Social Development, the Commission on Human Rights, and the Commission on Narcotic Drugs. 2/ * As members gathered for the first session of the Committee in May 1972, their agenda called for the development of a strategy for crime prevention linked to the question of drug abuse and criminality, and to the issue of human rights in the administration of justice (E/CN.5/536, annex IV).

15. Given the new role of the Committee, the General Assembly, in its resolution 3021 (XXVII) of 18 December 1972, instructed the Committee to prepare a report on methods and ways likely to be most effective in preventing crime and improving the treatment of offenders, including recommendations on the measures most appropriate in such areas as law enforcement, judicial procedures and correctional practices. The Committee responded to this mandate and presented a

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*For background information, see William Clifford, "The Committee on Crime Prevention and Control", International Review of Criminal Policy No. 34 (United Nations publication, Sales No. E.78.IV.8), pp. 11-18.

report on the issue (E/CN.5/536, annex IV). The Assembly noted the report in its resolution 32/58 of 8 December 1977, and invited Member States to make use of it in formulating national crime prevention policies and strategies. In addition, in its resolution 32/60 of 8 December 1977, the Assembly entrusted the Committee with the function of preparing United Nations congresses on the prevention of crime and the treatment of offenders by submitting appropriate proposals to the Economic and Social Council, and provided the basis for development in relation to the role and functions of the Committee.

1. Functions and long-term programme of work of the Committee on Crime Prevention and Control

16. In response to the above-mentioned mandate of the General Assembly, the Economic and Social Council, in its resolution 1979/19 of 9 May 1979, recognizing the role of the Committee in organizing and coordinating activities relating to crime prevention and control in the United Nations system, significantly enlarged the scope of the tasks of the Committee and entrusted it with the following functions: preparation of the United Nations congresses on the prevention of crime and the treatment of offenders; submission to the competent United Nations bodies and to those congresses, for their approval, of programmes of international cooperation in the field of crime prevention on the basis of the principle of the sovereign equality of States and non-interference in internal affairs, and other proposals relating to the prevention of offences; provision of assistance to the Council in the coordination of the activities of United Nations bodies in matters concerning crime control and the treatment of offenders, and preparation and submission of findings and recommendations to the Secretary-General and to the appropriate United Nations bodies; promotion of exchanges of experience gained by States in the field of crime prevention and the treatment of offenders; and discussion of major issues of professional interest, as a basis for international cooperation in this field, particularly those related to the prevention and reduction of crime. By Council resolution 1979/30 of 9 May 1979, the Committee membership was increased from 15 to 27 members.

17. In its resolution 1983/25 of 26 May 1983, the Council expressed its conviction that the functions entrusted to the Committee required not only the most informed, thoughtful and deliberate consideration by the Committee, but also the timely submission of its recommendations to, and action thereon by, the Council and the General Assembly. It decided, therefore, that the Committee should report directly to the Council.

2. Optimal functioning of the Commitee on Crime Prevention and Control and its contribution to programme development

18. In the context of the review of the functioning and programme of work of the United Nations in crime prevention and criminal justice, the optimal functioning of the Committee was sought, in pursuance of Economic and Social Council resolutions 1986/11 of 21 May 1986 and 1987/53 of 28 May 1987. Within existing possibilities, the Secretariat had made special efforts to keep the Committee members fully involved in the work programme through, inter alia: regular correspondence and exchange of letters; direct involvement of the Committee on substantive matters through requests for comments and observations; and inviting members of the Committee to contribute to expert group meetings organized in cooperation with intergovernmental and non-governmental organizations. As suggested by the Committee itself at its sixth, seventh, eighth and ninth sessions, new modalities to follow up the recommendations of

the Committee were continuously explored. These included more active intersessional involvement in considering priority issues and related recommendations, special working groups, meetings of the bureau, and the appointment of special rapporteurs for specific studies requiring broader conceptualization, analyses and synthesis of results. These were considered to be particularly important in view of the expanded responsibilities of the Committee, which required collaborative ties with other bodies, such as the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Human Rights Committee, as called for by the General Assembly in its resolution 42/143 of 7 December 1987 on human rights in the administration of justice.

19. The Committee played a major role in the implementation of its work programme in response to the various mandates of the General Assembly, the Council and the United Nations congresses on the prevention of crime and the treatment of offenders. It provided the Secretariat with guidance in the light of current and emerging trends in crime prevention and criminal justice, and reviewed draft instruments, norms and guidelines for the consideration of the policy-making bodies. The Committee assisted in the identification of priority concerns and in advancing research initiatives and policy development in specific areas, such as the prevention and control of crime of international dimensions, integration of crime prevention policies in socio-economic planning, effective counter-strategies against organized crime, criminal activities of a terrorist character and other harmful types of criminal conduct. Issues such as juvenile delinquency and juvenile justice, as well as the relationship between youth crime and such factors as marginality, violence and drug abuse, and institutional and non-institutional treatment and rehabilitation of young persons in conflict with the law, were considered in depth by the Committee. The question of victims of crime and abuse of power also received special attention, having been placed in the forefront of the agenda of the Seventh Congress. The implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, through the development of implementation procedures and other means, was seen as a matter of great importance in addressing the plight of victims of crime and abuse of power.

20. The Committee provided guidance in the development of crime-related databases for the improved management and efficiency of criminal justice systems and the analysis of data received from Member States, leading to the preparation of the United Nations surveys of crime trends, operations of criminal justice systems and crime prevention strategies. It also recommended the establishment of a global crime prevention and criminal justice information network, in cooperation with the United Nations institutes and other entities concerned, including mechanisms for the centralization of inputs from non-governmental organizations and scientific institutions.

21. The Committee not only called for the practical implementation of existing United Nations norms and guidelines, but also contributed to the development of effective implementation procedures, constantly underlining the importance of assisting developing countries, through interregional advisory services and other means of technical cooperation, in their efforts to incorporate the principles of these norms and guidelines in domestic laws and regulations. Furthermore, the Committee contributed to the formulation of new norms, basic principles and standards, and model agreements in priority areas of concern to Member States, advising the Secretariat on its role in mobilizing the scientific community to become more involved in such activities.

3. Preparations for the quinquennial United Nations congresses on the prevention of crime and the treatment of offenders

22. In accordance with its terms of reference, the Committee was the preparatory body for the United Nations congresses in terms of both their organization and substance. These congresses have a long and distinguished history. Their organization was assumed by the United Nations in 1950 as a contractual obligation under General Assembly resolution 415 (V) of 1 December 1950, annex, which endorsed the transfer of the functions formerly exercised by the International Penal and Penitentiary Commission. In pursuance of General Assembly resolution 32/60 of 8 December 1977, the Committee on Crime Prevention and Control reviewed the provisional rules of procedure of the congresses with a view to bringing them into conformity with current practice in other United Nations bodies, conferences and congresses. The revised draft rules were adopted by the Economic and Social Council in its decision 1979/25 of 9 May 1979. The Sixth Congress adopted these provisional rules with minor amendments as its rules of procedure. They strengthened the intergovernmental character of the congresses, restricting its officers to government representatives and giving priority to them in all the proceedings.

23. With this transformation, the congresses increasingly assumed a policy-making role, though their resolutions still had to be adopted or endorsed by the General Assembly. The new body of model treaties, standards and guidelines, which were unanimously adopted by the recent congresses and by the General Assembly, attests to the crucial role played by the Committee in reaching consensus on basic principles for national application and on developing a legal infrastructure for more effective international cooperation against crime.

4. Creation of an effective United Nations crime prevention and criminal justice programme

24. The objective of creating a more effective programme has been constantly pursued by the Committee. Since its ninth session, the Committee has concerned itself with the review of the functioning and programme of work of the United Nations in crime prevention and criminal justice as called for in the Milan Plan of Action, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and the General Assembly in resolution 40/32 of 29 November 1985. Its efforts culminated in the preparation in 1990 of a report on the need for the creation of an effective international crime and justice programme (E/1990/31/Add.1), which was endorsed by the Eighth Congress and considered by the Intergovernmental Working Group on the Creation of an Effective International Crime and Justice Programme. The report discussed the inadequacies of present cooperation and assistance in this field, and provided the basic elements for the creation of a more effective programme. Its conclusion was that the organizational and structural constraints on the programme, along with the scarcity of means, had seriously hampered the fulfilment of United Nations functions, and that in spite of the repeated calls for strengthening international action, little had been done to bridge the gap between the worldwide needs and the international response. Indeed, the adoption by the General Assembly of resolution 46/152 marked the end of a long review process and traced the path for the future programme in line with the desire of the Committee to see the potential of the programme fully realized.

B. Organization and functioning of the Commission on Crime Prevention and Criminal Justice

25. In accordance with the Statement of Principles and Programme of Action, the Commission is entrusted with the following functions: to provide policy guidance to the United Nations in the field of crime prevention and criminal justice; to develop, monitor and review the implementation of the programme on the basis of a system of medium-term planning in accordance with the priority principles contained in paragraph 21 of the Programme of Action; to facilitate and help coordinate the activities of the interregional and regional institutes; to mobilize the support of Member States for the United Nations crime prevention and criminal justice programme; and to prepare the crime congresses, considering also suggestions regarding possible subjects for the programme of work as submitted by the congresses.

26. The creation of the Commission reflected the determination of Governments to rely upon a more effective United Nations programme. Its first session constitutes an opportunity to reflect on the tasks ahead and to plan for the future. In discussing its functions as specified in the preceding paragraph, the Commission may wish to undertake periodic reviews of programme delivery and achievements of the programme; assess the resources available and identify those necessary for the intended tasks; and initiate, as required, appropriate action, leading to greater programme efficiency and effectiveness.

27. In developing the programme, the Commission should determine priority areas in response to the concerns of Member States, giving particular consideration to the following: empirical evidence, including research findings and other information on the nature and extent of crime and on trends in crime; the social, financial and other costs of various forms of crimes and crime control to the individual, to the local, national and international community, and to the development process; the need of developing or developed countries, which are confronting specific difficulties related to national or international circumstances, to have recourse to experts and other resources necessary for establishing and developing programmes for crime prevention and criminal justice that are appropriate at the national and local levels; the need for a balance within the programme of work between programme development and practical action; the protection of human rights in the administration of justice and the prevention and control of crime; the assessment of areas in which concerted action at the international level and within the framework of the programme would be most effective; and avoidance of overlapping with the activities of other entities of the United Nations system or of other organizations.

28. In connection with the above, the Commission may wish to initiate discussion on its medium- and long-term programme of work, including the identification of priority themes to be discussed at certain sessions, with a view to thorough examination of those issues deserving particular attention, taking also into account the work generated through the preparation of the congresses.

29. The Commission is also to facilitate and help coordinate the work of interregional and regional institutes for crime prevention and criminal justice. The network of those institutes is a useful infrastructure for international cooperation at the regional and subregional levels. 3/

30. With the assistance of the Secretariat, the Commission is to mobilize the support of Member States for the implementation of the programme. This may

include, inter alia, securing scientific and professional help from Governments, including the secondment of highly qualified staff to undertake specific research assignments or other technical undertakings, fund-raising and encouragement of voluntary contributions from Governments and from private donors; joint implementation of technical assistance projects with governmental institutions and with other donors, such as funding agencies, academic institutions and non-governmental organizations interested in the field.

31. The preparations for United Nations congresses on the prevention of crime and the treatment of offenders is another important task for the Commission. The topics to be discussed at the congresses are to be selected by the Commission, and the holding of regional preparatory meetings will be under its guidance.

32. In its consideration of its functioning and method of work, the attention of the Commission is drawn to the fact that, in pursuance of paragraphs 23, 27 and 28 of the Statement of Principles and Programme of Action, the Commission is empowered to create ad hoc working groups and to appoint special rapporteurs, as its deems necessary. It shall, when needed, use the services of qualified and experienced experts, either as individual consultants or in working groups, in order to assist in the preparations for and follow-up work of the Commission. There will be a basic need for involving independent experts in this field. This is in line with the practice followed by other bodies of the Economic and Social Council which proved to be successful in achieving the intended objectives.

C. Proposed revisions of programme 29 of the medium-term plan for the period 1992-1997

33. The medium-term plan constitutes the principal policy directive of the United Nations, and serves as a framework for the formulation of the biennial programme budget. During their consideration of the proposed plan in 1990 for the period 1992-1997, the General Assembly, the Committee for Programme and Coordination and the Advisory Committee on Administrative and Budgetary Questions stressed, in particular, the need to improve the content and format of the Plan through a fuller implementation of the programme planning regulations and rules, as well as the need to expand the process of consultations with Member States to as many programmes as possible. The medium-term plan 4/ adopted by the General Assembly in its resolution 45/253 of 21 December 1990 served as the framework for the formulation of the proposed programme budget for the biennium 1992-1993.

34. According to United Nations rules and regulations, the revisions to the plan are an integral part of the planning cycle established by the General Assembly so as to reflect new programmatic changes. These revisions will be considered by the Committee for Programme and Coordination and the Advisory Committee on Administrative and Budgetary Questions in May-June 1992, and later by the Economic and Social Council at its 1992 regular session, and by the General Assembly at its forty-seventh session. In this connection, the attention of the Commission is drawn to the note by the Secretary-General on the proposed revisions of programme 29 of the medium-term plan for the period 1992-1997 contained in document E/CN.15/1992/CRP.1. The revisions contained therein reflect the changes resulting from the relevant resolutions of the General Assembly at its forty-fifth and forty-sixth sessions, as well as the recommendations and conclusions of the Ministerial Meeting. In its consideration of these revisions, the Commission may wish to take into account the

content of the programme budget for the biennium 1992-1993, also as a basis for the determination of programme priorities, in accordance with paragraph 21 of the Programme of Action.

D. Implementation of other conclusions and recommendations of the Ministerial Meeting

35. In addition to the Statement of Principles and Programme of Action, the Ministerial Meeting considered other proposals for further consideration by the Commission on Crime Prevention and Criminal Justice. They are briefly highlighted below.

1. Possible need for a convention on international cooperation in crime prevention and criminal justice

36. It may be recalled that, in response to a recommendation by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the General Assembly, in its resolution 45/108 of 14 December 1990, invited Member States, in consultation with the Secretary-General and the Chairman of the Committee on Crime Prevention and Control, to convene an early ministerial meeting: to consider the report of the Intergovernmental Working Group in order to decide what the future crime prevention and criminal justice programme should be; and to consider, in that context, the possible need for a convention or other international instrument to develop the content, structure and dynamics of that programme, including mechanisms for setting priorities, securing the implementation of the programme and monitoring the results achieved. In its resolution 1991/15 of 30 May, the Economic and Social Council stressed, inter alia, the importance of General Assembly resolution 45/108 in determining mechanisms for the more efficient focusing of the programme on those activities where the United Nations could make a positive contribution to the control of crime.

37. In considering the proposal on the possible need for a convention, the Ministerial Meeting had before it the following documents: a letter, dated 8 November 1991, from the First Alternative Representative of Costa Rica to the United Nations addressed to the Secretary-General (A/CONF.156/41); a draft international convention on cooperation in crime prevention and criminal justice (A/CONF.156/CRP.1); and a document entitled "Future of the United Nations crime prevention and justice programme: a plan for the restructuring of the United Nations crime prevention and criminal justice programme", submitted by the Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations (A/AC.239/CRP.2). Having discussed the matter, the Ministerial Meeting took the following position, as reflected in paragraph 63 of its report (A/46/703):

> "Although some delegations were in favour of the development of an international convention in order to continue the work of the United Nations in codification of international criminal law, others felt that such a project was premature. In fact such work would consume time and resources, something impracticable under the present constraints. After having considered the proposals made by the delegation of Costa Rica, the Meeting decided that: (a) the Commission on Crime Prevention and Criminal Justice to be established shall be competent to examine the desirability of a Convention or of another instrument; (b) the Commission shall examine that possibility and shall take the appropriate decision."

The Secretary-General is of the view that it is for the Commission to decide on the most appropriate course of action to deal with the proposal.

2. Towards a crime prevention foundation

38. The Eighth Congress, in its resolution 1 on the prevention of urban crime, 5/ invited the Secretary-General to develop the initiating and coordination role of the United Nations Secretariat by, inter alia, encouraging the creation of an international foundation for the prevention of crime, which would associate practitioners in charge of the formulation and the implementation of national and local policies on crime prevention.

39. At the Ministerial Meeting, a number of delegations supported the establishment of such a foundation, and expressed the view that the United Nations should be the connecting body between the proposed foundation and other already existing institutions as well as practitioners and policy makers in Member States (A/46/703, para. 62). Having considered a proposal by the delegation of France (A/CONF.156/CRP.2), the Meeting adopted a resolution on "the need for technical cooperation in the field of crime prevention and criminal justice" requesting the Commission to examine this question.

IV. MATTERS REQUIRING FURTHER ACTION BY THE COMMISSION

40. In the Statement of Principles and Programme of Action, Member States recognized the policy directives provided by the United Nations policy-making bodies by noting the importance of the principles contained in the Milan Plan of Action and the Guiding Principles for Crime Prevention and Criminal Justice in the Context of Development and a New International Economic Order, as well as other pertinent instruments formulated by United Nations congresses and approved by the General Assembly. This recognition reaffirms the continuity and validity of previous mandates, reflecting the extensive needs in the crime field and the challenging tasks ahead to which the Commission will want to respond.

41. The overall objectives of the programme are as follows: assisting the international community in preventing and controlling crime within and among States; strengthening international cooperation to combat transnational crime and the integration and consolidation of the efforts of Member States towards this end; ensuring a more efficient and effective administration of justice, with due respect for human rights; and the promotion of the highest standards of fairness, humanity, justice and professional conduct. The attainment of these objectives requires clear policy directives in relation to programme development vis-à-vis programme implementation; ways and means of ensuring the ability of the programme to provide practical assistance to Member States, as called for in paragraph 5 of General Assembly resolution 46/152; and securing the human and financial resources required to implement the programme, together with an adequate and effective organizational structure of the Secretariat.

A. Programme development vis-à-vis programme implementation

42. As stipulated in its terms of reference, the Commission is expected to mobilize the support of Member States for the United Nations crime prevention and criminal justice programme, as well as to develop, monitor and review its implementation, on the basis of a system of medium-term planning in accordance with the priority principles enunciated in paragraph 21 of the Programme of

Action. This would entail that programme development would go hand in hand with programme implementation. It is the prerogative of the Commission to strike the proper balance between them. In order to assist it in considering this matter, some preliminary views on matters requiring further action by the Commission are presented below, drawing on the results of the programme review and in response to the most recent legislative mandates.

1. Operational activities: the role of technical cooperation and assistance

43. The Secretary-General, in his report to the forty-fifth session of the General Assembly on the implementation of the resolutions and recommendations of the Seventh Congress, concluded that the successful implementation of these mandates depends above all on the efforts made by Governments within their domestic jurisdiction. Criminal code and procedure reforms have been undertaken by Governments in recent years in a large number of countries and widely disseminated. The police and the judicial and correctional systems are being restructured to strengthen their efficacy in upholding the rule of law. There is an evident trend towards decriminalization of minor offences so as to allow greater attention to be paid to the control of more serious crime. There is also an increasing use of non-penal measures and of alternative, non-custodial sanctions in an ever-larger number of countries. Member States have intensified their struggle against the most serious forms of criminality, including organized crime, terrorism, illicit drug trafficking and environmental and economic offences. The promulgation and application of appropriate laws and regulations to control and combat those forms of crime have often resulted from international treaties, instruments, norms and guidelines formulated by the United Nations.

44. However, developing countries have voiced their concern that they have to struggle against serious handicaps such as the lack of skilled personnel, of training opportunities and of technological and material means. The economic crisis that they are facing has compounded the problem, as has the economic, social and human cost of crime, which is impairing sustainable growth and the quality of life. They have thus expressed their keen interest in receiving United Nations advisory services and other types of aid. They have pointed out that national programmes had not always received appropriate international assistance in this particular field, although in recent years, there has been a significant increase in relevant technical assistance requests. They also emphasized that the regional and interregional crime prevention institutes could play an important role in advancing technical cooperation and assistance.

45. The Ministerial Meeting emphasized the need to develop technical cooperation, both bilaterally and multilaterally, in the area of crime prevention and criminal justice, and requested the Commission to include in its agenda the question of employing effective mechanisms to facilitate technical cooperation, including the utilization of the services of the United Nations Interregional Crime and Justice Research Institute and the other United Nations regional institutes or other appropriate mechanisms.

46. The General Assembly, in its resolution 46/152, strongly emphasized the practical orientation of the programme and the need for intensified technical cooperation activities intended to assist Member States in achieving the goals of preventing crime within and among States and improving the response to crime.

47. In particular, the Assembly requested the Secretary-General to give a high level of priority to the programme, so as to provide States with practical assistance, such as data collection, sharing of information and experience, and training, and to take the necessary action to provide appropriate resources for the effective functioning of the programme. The Statement of Principles and Programme of Action stressed that the pressing needs of the international community in the field of crime prevention and criminal justice should be met through designing the new programme to enable it to perform its growing functions as a clearing-house, commensurate with its increased responsibilities, especially with respect to the implementation of United Nations instruments. The new programme should also constitute a dynamic and flexible operational tool with which to prevent crime, promote security, sustain national development and enhance justice. The capacity of the programme to respond to requests from Member States, and to plan, support and supervise the execution of the required operational activities would, therefore, need to be strengthened, particularly in the priority areas identified by the Commission, in which concerted action would be most effective.

48. More specifically, the programme should be enabled to plan, implement and evaluate crime prevention and criminal justice projects, develop training and education schemes and the requisite material, including manuals and curricula, also in cooperation with academic institutions and other entities concerned. Assessment and planning of programme activities and evaluation of product delivery should be regularly undertaken to ensure that the Commission is kept abreast of the developments and needs, as well as the overall programme impact. It should provide full-time backstopping to the interregional advisory services and other technical cooperation activities, identify sources of funding for technical cooperation and maintain direct contacts with the relevant entities of the United Nations, including the Department of Economic and Social Development, the United Nations Development Programme and the World Bank, as well as other funding agencies and the private sector. It should also coordinate the work of the interregional and regional institutes, government-appointed national correspondents, and other associated institutions undertaking technical cooperation activities.

49. The programme should serve as a worldwide training network for developing countries and other smaller countries with specific requirements. Priority attention should be given to the formulation of an international training strategy in the field of crime prevention and criminal justice, involving recipient and donor countries, intergovernmental and non-governmental organizations and other funding agencies, and the coordination of relevant initiatives. Attention should also be given to the establishment of training capabilities within the United Nations programme so as to be able to develop, organize and coordinate training programmes of the highest quality. An enhanced and diversified effort for the identification of funding sources for the implementation of technical cooperation projects is, therefore, urgently required.

50. In the Statement of Principles, Member States recognized that the world was experiencing very important changes creating a political climate conducive to democracy, international cooperation, more widespread enjoyment of basic human rights and fundamental freedoms, and the realization of the aspirations of all nations and people to economic development and social well-being. They also recognized that democracy and a better quality of life can flourish only in the context of peace and security for all, to which effective crime prevention and criminal justice are a direct contribution. The crime

prevention and criminal justice programme has already been involved in a number of peace-keeping operations of the Organization, such as those undertaken in Cambodia, El Salvador, Namibia etc., and it is expected that it will increasingly be requested to provide expertise in such areas as civil police organization and management, the administration of justice, the elaboration and application of codes of conduct, as well as the planning for the training courses designed as part of these missions.

51. Given the importance of this endeavour, the programme could assist the architects of new democratic constitutions by providing technical assistance in the formulation of humane criminal justice systems, ensuring justice and the rule of law with due respect for human rights. In the process of democratization and the holding of free and fair elections, the programme could assist in organizing training courses and seminars for law enforcement officials and judges; guide the handling of court appeal cases; and help to introduce security measures that would protect the electoral process, thus enhancing national reconciliation and conflict resolution by peaceful means, and contributing to the promotion of internal stability and peace.

52. The new orientation of the programme will require a novel approach in order to increase its effectiveness and impact. The Commission is the main intergovernmental body, with political leverage and status, entrusted with the task of providing overall guidance in this regard. Its Secretariat, under the supervision of the Commission, should not only act as a facilitating agent, but also serve as a dynamic and responsive channel through which the needs of countries interested in technical assistance can be met. The Commission may wish to consider possible ways and means by which the programme can adapt to these requirements and new orientations.

2. Effective implementation of existing United Nations standards and norms

53. Priority should be given to devising more effective procedures for the practical implementation of existing United Nations norms and standards at the national, regional and international levels. An assessment of the impact achieved and of the problems encountered in the application of these instruments is needed, as well as the development of implementation mechanisms for newly adopted standards.

54. At the national level, the successful implementation of existing United Nations standards and norms in criminal justice depends, in the first instance, on the efforts made by Governments within their domestic jurisdiction. An ongoing dialogue between the Secretariat, Governments and national correspondents is also essential. At the regional level, the role of the United Nations regional and interregional institutes is of particular significance. Through seminars and training courses for officials involved in criminal justice activities, and through pilot projects, the United Nations instruments can be successfully adapted to the particular needs and priorities of countries and regions.

55. At the international level, particular attention should be given to assisting developing countries in the practical implementation of standards and norms through the interregional advisory services and other means of technical cooperation. This will include attuning the standards and norms to the requirements of economic and social development, with full respect for

human rights, and emphasizing the role of research, education, training, public information and the dissemination of knowledge.

56. Member States, at the Eighth Congress, called for the development of future procedures for evaluating the extent to which Member States implement United Nations norms and guidelines in crime prevention and criminal justice. In response to resolution 29 of the Congress, 5/ an expert group meeting was organized on this subject by the Home Office of the United Kingdom of Great Britain and Northern Ireland, in cooperation with the United Nations crime prevention and criminal justice programme, the recommendations of which are contained in document E/CN.15/1992/4/Add.4.

3. Research and policy development for inter-State cooperation and coordination

57. In the Statement of Principles, Member States emphasized that the world today is still beset by violence and other forms of crime, both national and transnational. These phenomena, wherever they occur, constitute a threat to the maintenance of the rule of law. They expressed the belief that rising crime was impairing the process of development and the general well-being of humanity. If this situation continues, progress and development will be the ultimate victims of crime. It is proposed that priority be accorded to broad and specific strategies for crime prevention and criminal justice and promotion of their practical application by Member States. Research initiatives on specific crime problems are also needed to serve as a basis for policy formulation and implementation. The Secretary-General, in his report to the General Assembly on the implementation of the conclusions and recommendations of the Eighth Congress, 6/ provided an overview of crime prevention and criminal justice issues deserving particular attention. Transnational criminality is a clear preoccupation of the international community. The Programme of Action called for the integration and consolidation of the efforts of Member States in preventing and combating transnational crime. Thus, the further development of bilateral and multilateral instruments and standards, together with model codes and model legislation dealing with specific issues of direct concern to Governments, should be pursued. There is, however, also an urgent need for the development of practical arrangements between the services concerned to facilitate joint strategies and action on problems of mutual concern.

58. The need for improved international legal cooperation in matters of crime prevention and criminal justice has become increasingly apparent. Many criminal offences, such as those involving illicit drugs, terrorism, and money laundering, have significant international dimensions. Yet, despite a growing appreciation of their international character, troublesome problems have arisen in extraditing suspects, collecting evidence, and implementing forfeitures of property and goods when the offences are carried out across international borders. Some of those problems are merely the result of logistical and bureaucratic difficulties in requesting legal assistance. Others, however, result from differences in attitudes held by States with different legal traditions. 7/ Research on variations in national procedures, national law enforcement systems, and the difficulties confronting international legal cooperation should be conducted, the results of which would facilitate collaborative action between States. There is also need to review criminal laws in areas such as organized and economic crime, environmental offences, and drug trafficking. This would help harmonize national legislations and bridge gaps deriving from inter-State differences apt to be criminogenic or conducive to the transfer of criminal operations.

59. Corruption and flight of capital are serious problems in many countries, regardless of their state of development or form of Government. A report 8/ issued by the United Nations Development Programme has described corruption as an area deserving new thinking. It often operates at the highest levels, involving rich and powerful élites, and can be difficult for local people to expose. The export of capital by nationals and corporations represents a serious drain of resources from many developing countries. The problem is exacerbated by the practices of commercial banks in the haven countries, soliciting funds for tax-free interest and offering high interest rates. In addition to the "Manual on Measures against Corruption" (A/CONF.144/8), which is being revised and widely disseminated, a draft international code of conduct for public officials is being formulated, in order to assist Governments in upgrading the quality of public service and to curtail illicit activity. Other relevant areas could also be identified, for example, through guiding principles to combat large-scale fraud, white-collar crime and capital flight.

60. A more efficient and effective administration of justice, with due respect for the human rights of all those affected by crime and all those involved in the criminal justice system is called for. In many countries, there is a criminal justice management crisis largely because of inadequate training of personnel in policy formulation and implementation. There is also a lack of coherent overall policy and of coordination between criminal justice agencies. Improved performance requires changes ranging from the reform of criminal law and procedures to a better functioning of the various subsystems, in the light of scientific knowledge and technological innovations. The programme should take these needs fully into account and be able to advise Member States on policies aimed at promoting the highest standards of fairness, humanity, justice, efficiency and professional conduct.

61. Research and policy development require the establishment of crime-related databases. A fundamental goal should be that of promoting informed approaches to crime, based on factual information on the extent of criminality globally and on knowledge of related social and other problems. Further attention should be given to developing guidelines on the prevention and control of crime and better planning of criminal justice systems, following a thorough analysis of data received from Member States. Assistance to interested Governments in the development of their own databases should also be pursued.

62. Databases on particular categories of victims of crime and abuse of power, such as the victims of serious human rights violations, terrorism, racism and discrimination against minorities, exploitation of youth and children as means of crime, and victims of domestic violence should be given adequate attention. Effective policies and strategies should be devised, based on the findings of action-oriented research, so as to adequately address the plight of these victims, and to develop mechanisms to curtail serious victimization. Ensuring justice for victims should involve the full implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; it also requires investigative means and inquiries, conflict resolution procedures, and the development of international means of recourse where national channels may be insufficient. The Eighth Congress, in its resolution 27 on protection of the human rights of victims of crime and the abuse of power, 5/ proposed the creation of an international fund for victims - a matter which the Commission may wish to consider.

4. Information sharing and dissemination: the strengthening of the global information network on crime and criminal justice

63. The Programme of Action called for the intensification of the exchange and dissemination of information among States on crime prevention and criminal justice, particularly with regard to innovative measures and the results achieved in their application. The cross-fertilization of expertise and exchange of experience worldwide can be achieved through the timely collection, dissemination and sharing of information on the latest developments in the field. Among the important recommendations made as a result of the review exercise was the establishment of a global information network on crime and criminal justice, as called for in Economic and Social Council resolution 1986/11. The Eighth Congress, in a number of resolutions, requested the establishment of data banks on special subjects; in others, it called for expanded automated information exchange and networking in the crime field as a whole. The global information network is in place. It lacks, however, the necessary human and financial resources for its effective operation. If it is to fulfil its intended functions, the necessary equipment and staff time will have to be allotted.

64. Greater visibility and outreach of the United Nations programme should be enhanced through effective clearing-house functions and a vigorous public information strategy aimed at advancing knowledge, policy and practice. Specialized publications and other materials, such as technical manuals, pamphlets, briefs and circulars on specific issues, should be further developed. There is also a great need to strengthen links with the programme activities of academic, scientific, professional and training institutions, organizations and publication agencies.

B. Human and financial resources: the key issue

65. In the Statement of Principles, Member States acknowledged the contribution of the United Nations programme to the international community. They noted that it was a long-recognized fact that inadequate resources had been devoted to its implementation, which had, in the past, been inhibited from achieving its potential. They also noted that the strengthening of the programme resources was called for by the congresses and the policy-making bodies. Accordingly, they expressed their determination to translate their political will into concrete action, including the establishment of an adequate resource base for a truly effective United Nations crime prevention and criminal justice programme. The General Assembly, in its resolution 46/152, encouraged developed countries to review their aid programme and make their contributions to crime prevention and criminal justice within the overall context of development priorities, and requested the Secretary-General to take the necessary action, within the overall United Nations resources and in accordance with its financial rules and regulations, and to provide appropriate resources for the effective functioning of the programme.

66. The crime prevention and criminal justice programme serves as the central repository, in the United Nations system, of professional and technical expertise in matters of crime prevention, criminal justice and other crime-related concerns. It carries out the functions entrusted to the United Nations by its policy-making bodies. In line with the Statement of Principles and Programme of Action, the Secretariat of the programme is the permanent body responsible

for facilitating its implementation, in accordance with the priorities established by the Commission, and for assisting it in conducting evaluations of the progress made and analysis of the difficulties encountered. In sum, the Secretariat is to mobilize resources, coordinate research and training, provide technical assistance, and assist the Commission in the organization of its work and in the preparation of quinquennial United Nations crime congresses.

67. In terms of the organizational structure of the Secretariat, the Programme of Action recommended to the Secretary-General that, in recognition of the high priority that should be accorded to the programme, an upgrading of the Crime Prevention and Criminal Justice Branch into a division should be effected as soon as possible; that the programme should be directed by a senior official, with extensive experience in the crime prevention and criminal justice field, responsible for the overall day-to-day management and supervision of the programme, communicating with the relevant government officials, the specialized agencies and intergovernmental and non-governmental organizations whose activities are relevant to the programme; and that the programme should be funded from the regular budget of the United Nations, supplemented with additional voluntary contributions from Governments, including in-kind contributions for operational activities.

68. In his statement to the General Assembly on the programme budget implications of the draft resolution entitled "Creation of an effective United Nations crime prevention and criminal justice programme" (A/C.5/46/76), the Secretary-General outlined the new activities to be undertaken by the programme in the context of the implementation of General Assembly resolution 46/152, noting that such new activities represented a significant expansion to international cooperation, including its technical cooperation component. He also acknowledged the need to strengthen the organizational structure of the Secretariat responsible for the implementation of the activities in the crime prevention and criminal justice programme, which had already been recognized in the context of the overall review of the strengthening of the United Nations Office at Vienna, made in response to General Assembly resolution 45/248 of 21 December 1990. Finally, the Secretary-General concluded his statement by suggesting that he would submit to the General Assembly at its forty-seventh session a revision to programme 29 of the medium-term plan for the period 1992-1997 and revised estimates under section 21 of the proposed programme budget for the biennium 1992-1993 in relation to activities in the area of crime prevention and criminal justice.

69. The call for intensified international cooperation in this field, together with the expansion of operational activities and technical assistance, as called for in General Assembly resolution 46/152 and its annex, require expanded financial and human resources, particularly in view of the increasing needs of developing countries for technical assistance. Appropriate budgetary and extrabudgetary resources are needed in order to make the programme fully operational. While the Secretary-General will continue to explore the possibilities for addressing this question, it is also the task of the Commission to advise on resource mobilization and to provide its support for additional fund-raising activities and tallying of voluntary contributions.

V. CONCLUDING REMARKS

70. The continued growth of crime underscores the urgency of incisive action. Its transnational scope and widening reach demand a commensurate response. Yet, the available means and mechanisms have not kept pace with its growing

trends and dangerous new forms. The common concern about crime, linking countries at all stages of development, must be matched by the political will to translate this concern into reality. Effective action against crime must, also, not only confront current crime problems but emerging needs as well. 9/

71. The Ministerial Meeting was perceived by Member States both as an end and as a beginning. It was an end in that it completed the cycle of the lengthy discussions held in the past few years which dealt with the review of the functioning and programme of work of the United Nations in crime prevention and criminal justice, sparked by the Milan Plan of Action. The Meeting was also a milestone, which marked the beginning of a new course by laying down the basic principles for the creation of a more effective United Nations programme, more responsive to the needs of Member States. Recent experience has underlined the pervasive dangers posed by crime, threatening the maintenance of the rule of law, development and constructive change. In approaching the twenty-first century, the international community must seek ways of reversing this trend, promoting more viable societies in a more secure world climate where justice prevails over lawlessness and impunity. The Commission has a daunting task in seeking to translate these aims into reality, but will no doubt rise to the challenge.

72. By developing modalities for practical collaboration to combat crime, fostering more effective crime prevention and humane justice, and proposing a minimum of resources for a truly effective United Nations programme, the basis for action will have been laid. By recommending the most appropriate course of action to give effect to the commitment expressed by Governments in Paris, the Commission will have fulfilled a crucial role in charting the future path for the programme.

Notes

1/ "Report of the Ministerial Meeting on the Creation of an Effective United Nations Crime Prevention and Criminal Justice Programme" (A/46/703), paras. 13 and 63.

2/ "Report of the Committee on Crime Prevention and Control on its first session" (E/AC.57/7), para. 12.

3/ "Progress report of the Secretary-General on the activites of the United Nations Interregional Crime and Justice Research Institute and the United Nations regional institutes for crime prevention and criminal justice" (E/CN.15/1992/3).

4/ Official Records of the General Assembly, Forty-fifth Session, Supplement No. 3 (A/45/3/Rev.1).

5/ Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Havana, 27 August-7 September 1990): report prepared by the Secretariat (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. C.

6/ "Implementation of the conclusions and recommendations of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders: report of the Secretary-General" (A/45/629).

7/ Proceedings of the Harvard Law School Conference on International Cooperation in Criminal Matters, vol. 31, No. 1 (1990), p. 1.

8/ Human Development Report 1991 (New York, Oxford University Press, 1991), pp. 49-50.

9/ "Crime prevention and criminal justice in the context of development: realities and perspectives of international cooperation: working paper prepared by the Secretariat" (A/CONF.144/5), para. 87.